

**193A—13.3 (542) Independence, integrity, objectivity and conflicts of interest.**

**13.3(1) *Independence.*** A CPA or LPA or firm of which a CPA or LPA is an owner (e.g., partner, shareholder, or member) shall not issue a report on financial statements of a client in such a manner as to imply that the CPA or LPA is acting as an independent public accountant with respect thereto unless the CPA or LPA is independent with respect to such client. Independence will be considered to be impaired if, for example:

*a.* During the period of the professional engagement, or at the time of expressing an opinion, a CPA, LPA or covered member:

(1) Had, or was committed to acquire, any direct or material indirect financial interest in the client; or was a trustee of any trust or executor or administrator of any estate if such trust or estate had, or was committed to acquire, any direct or material indirect financial interest in the client; or

(2) Had any joint closely held business investment with the client or any officer, director or principal stockholder which was material to the CPA, LPA, or covered member; or

(3) Had any loan to or from the client or any officer, director or principal stockholder thereof other than loans of the following kinds made by a financial institution under normal lending procedures, terms and requirements: loans which are not material in relation to the net worth of the CPA, LPA or covered member; home mortgages; and other secured loans, except those secured solely by a guarantee of the CPA, LPA or covered member.

*b.* During the period covered by the financial statements, during the period of the professional engagement, or at the time of expressing an opinion, the covered member:

(1) Was connected with the client as a promoter, underwriter or voting trustee, a director or officer or in any capacity equivalent to that of a member of management or of an employee; or

(2) Was a trustee for any pension or profit-sharing trust of the client.

The foregoing examples are not intended to be all-inclusive.

**13.3(2) *Integrity, objectivity, and conflicts of interest.***

*a.* A CPA or LPA shall not, in the performance of professional services, knowingly misrepresent facts, subordinate judgment to others, or allow professional judgment and objectivity to be impaired by self-interest or by a conflict of interest between the licensee and a client or between clients. In tax practice, however, a CPA or LPA may resolve doubt in favor of the client as long as there is reasonable support for this position.

*b.* When faced with a conflict of interest that impairs or may impair professional judgment and objectivity, the licensee shall decline or cease the engagement, take steps to remove the conflict or, when reasonably feasible and appropriate under the circumstances and consistent with independence requirements, disclose the conflict or potential conflict and secure informed consent to proceed with the engagement from all clients. In no event, however, shall a licensee proceed with an engagement through informed consent when the nature of the conflict impairs the licensee's objectivity, whether or not the client or clients consent.

*c.* A conflict of interest may arise, for instance, when a licensee represents multiple clients whose interests are adverse to each other. Whether a licensee can provide competent, diligent, and objective representation to clients whose interests are or may be adverse to each other's interests or the interests of the licensee, with informed consent, will depend on the factual circumstances of the engagement. Licensees are cautioned that, when in doubt as to whether informed consent will effectively address an actual or potential conflict of interest, the most prudent course is to decline or cease the engagement and to advise one or more of multiple clients to seek alternative professional representation.

**13.3(3) *Commissions.*** A CPA or LPA may accept a commission subject to the prohibitions set forth in Iowa Code section 542.13(15) and the restrictions set forth in these rules.

*a.* A CPA or LPA engaged in the practice of public accounting must act in the best interests of the client and shall not allow integrity, objectivity or professional judgment to be impaired by the self-interest a commission-based fee may create.

*b.* A CPA or LPA who anticipates receiving a commission in connection with the recommendation, referral or sale of a product or service must establish such procedures as are reasonably necessary to avoid the prohibitions set forth in Iowa Code section 542.13(15).

*c.* A CPA or LPA engaged in the practice of public accounting who is paid or expects to be paid a commission shall disclose that fact to any person or entity to whom the CPA or LPA recommends, refers or sells a product or service to which the commission relates.

*d.* To ensure full and effective disclosure, a CPA or LPA shall substantially adhere to the following guidelines when recommending, referring or selling a product or service to which a commission relates:

(1) The disclosure shall be in writing, signed and dated by the person to whom a product or service is recommended, referred or sold, and a copy shall be provided to the client.

(2) The disclosure shall be made at or prior to the time the product or service is recommended, referred or sold.

(3) The disclosure shall be legible, clear and conspicuous, and on a separate form.

(4) A copy of the disclosure shall be retained by the CPA or LPA for as long as the CPA or LPA deems appropriate to the transaction; however, the board recommends a minimum of three years.

(5) In the event of a continuing engagement or series of related transactions involving similar products or services, one written disclosure may cover more than one recommendation, referral or sale as long as the disclosure is provided at least annually and is not misleading.

This rule does not prohibit payments for the purchase of all, or a material part, of an accounting practice, or retirement payments to persons formerly engaged in the practice of public accountancy, or payments to heirs or estates of such persons.

**13.3(4) *Contingent fees.*** A CPA or LPA may accept contingent fees as defined in rule 193A—1.1(542) subject to the prohibitions set forth in Iowa Code section 542.13(15) and restrictions set forth in these rules.